

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, *ex rel*
CHRIS McGOWAN,

No. C 09-05984 JSW

Plaintiff,

**ORDER REGARDING
ADMINISTRATIVE MOTION TO
DEFER RULING ON PENDING
MOTIONS TO SEAL**

v.

KAISER FOUNDATION HEALTH PLAN,

Defendant.

On September 29, 2014, Defendant, Kaiser Foundation Health Plan (“Kaiser”) filed an administrative motion in which it asks the Court to defer ruling on pending motions to seal documents submitted in connection with briefing on Kaiser’s motion for summary judgment until the Court rules on the United States’ motion to dismiss. (Docket No. 183.) Relator opposes Kaiser’s request. (Docket No. 190.)

Kaiser argues that if the Court grants the United States’ motion to dismiss, it will not be required to satisfy the “compelling reasons” standard set forth in *Kamakana v. City and County of Honolulu*, 447 F.3d 1172 (9th Cir. 2006), because the motion for summary judgment would not have been dispositive of the case. The *Kamakana* court stated that “‘compelling reasons’ must be shown to seal judicial records attached to a dispositive motion.” *Id.* at 1179. The court did not state that the motion must have been ruled upon to qualify as “dispositive,” and it compared motions for summary judgment to discovery motions, which it characterized as “non-dispositive.” *Id.* at 1180-81; *see also* Blacks Law Dictionary at 1168 (10th ed. 2014) (“A

1 motion for a trial-court order to decide a claim or case in favor of the movant without further
2 proceedings.”).

3 Accordingly, the Court will evaluate the motions to seal material attached to the briefing
4 on Kaiser’s motion for summary judgment under the “compelling reasons” standard.

5 **IT IS SO ORDERED.**

6 Dated: October 6, 2014

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8 JEFFREY S. WHITE
9 UNITED STATES DISTRICT JUDGE
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